

## REMARKS

While the office action makes the assertion that counsel's arguments are gratuitous and cites a case saying that arguments of counsel and declarations are unavailing, the response avoids the issue that the statements set forth in this declaration by counsel are not arguments and are not gratuitous. They are statements of fact of how the application was prepared and prove beyond all doubt that the present invention was not invented by Tallam. Since the Examiner has no rebuttal, the Examiner will be unable to prevail on appeal this time.

Therefore, reconsideration is requested.

Respectfully submitted,

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